

HOUSE BILL No. 1694

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12.1.

Synopsis: Tax abatement for leased property. Allows a real property owner to apply for the economic revitalization area property tax abatement when the property owner leases the property to a lessee who uses the property and employs the individuals necessary to receive the abatement.

Effective: January 1, 2010.

Borrer, Leonard, Bell, GiaQuinta

January 16, 2009, read first time and referred to Committee on Ways and Means.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1694

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-12.1-3, AS AMENDED BY P.L.99-2007,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2010]: Sec. 3. (a) An applicant must provide a statement
4 of benefits to the designating body. If the designating body requires
5 information from the applicant for economic revitalization area status
6 for use in making its decision about whether to designate an economic
7 revitalization area, the applicant shall provide the completed statement
8 of benefits form to the designating body before the hearing required by
9 section 2.5(c) of this chapter. Otherwise, the statement of benefits form
10 must be submitted to the designating body before the initiation of the
11 redevelopment or rehabilitation for which the person desires to claim
12 a deduction under this chapter. The department of local government
13 finance shall prescribe a form for the statement of benefits. The
14 statement of benefits must include the following information:
15 (1) A description of the proposed redevelopment or rehabilitation.
16 (2) An estimate of the number of individuals who will be
17 employed or whose employment will be retained by the person **or**



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1 **a tenant of the property owner** as a result of the redevelopment
 2 or rehabilitation and an estimate of the annual salaries of these
 3 individuals.

4 (3) An estimate of the value of the redevelopment or
 5 rehabilitation.

6 With the approval of the designating body, the statement of benefits
 7 may be incorporated in a designation application. Notwithstanding any
 8 other law, a statement of benefits is a public record that may be
 9 inspected and copied under IC 5-14-3-3.

10 (b) The designating body must review the statement of benefits
 11 required under subsection (a). The designating body shall determine
 12 whether an area should be designated an economic revitalization area
 13 or whether a deduction should be allowed, based on (and after it has
 14 made) the following findings:

15 (1) Whether the estimate of the value of the redevelopment or
 16 rehabilitation is reasonable for projects of that nature.

17 (2) Whether the estimate of the number of individuals who will be
 18 employed or whose employment will be retained:

19 **(A) by the property owner; or**

20 **(B) by a tenant of the property owner;**

21 can be reasonably expected to result from the proposed described
 22 redevelopment or rehabilitation.

23 (3) Whether the estimate of the annual salaries of those
 24 individuals who will be employed or whose employment will be
 25 retained:

26 **(A) by the property owner; or**

27 **(B) by a tenant of the property owner;**

28 can be reasonably expected to result from the proposed described
 29 redevelopment or rehabilitation.

30 (4) Whether any other benefits about which information was
 31 requested are benefits that can be reasonably expected to result
 32 from the proposed described redevelopment or rehabilitation.

33 (5) Whether the totality of benefits is sufficient to justify the
 34 deduction.

35 A designating body may not designate an area an economic
 36 revitalization area or approve a deduction unless the findings required
 37 by this subsection are made in the affirmative.

38 (c) Except as provided in subsections (a) through (b), the owner of
 39 property which is located in an economic revitalization area is entitled
 40 to a deduction from the assessed value of the property. If the area is a
 41 residentially distressed area, the period is not more than five (5) years.
 42 For all other economic revitalization areas designated before July 1,

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2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

- (1) the property has been rehabilitated; or
- (2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

- (1) Private or commercial golf course.
- (2) Country club.
- (3) Massage parlor.

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- (4) Tennis club.
 (5) Skating facility (including roller skating, skateboarding, or ice skating).
 (6) Racquet sport facility (including any handball or racquetball court).
 (7) Hot tub facility.
 (8) Suntan facility.
 (9) Racetrack.
 (10) Any facility the primary purpose of which is:
 (A) retail food and beverage service;
 (B) automobile sales or service; or
 (C) other retail;
 unless the facility is located in an economic development target area established under section 7 of this chapter.
 (11) Residential, unless:
 (A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;
 (B) the facility is located in an economic development target area established under section 7 of this chapter; or
 (C) the area is designated as a residentially distressed area.
 (12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:
 (A) was eligible for tax abatement under this chapter before July 1, 1995;
 (B) is described in IC 7.1-5-7-11; or
 (C) operates, **or has a lessee that operates**, a facility under:
 (i) a beer wholesaler's permit under IC 7.1-3-3;
 (ii) a liquor wholesaler's permit under IC 7.1-3-8; or
 (iii) a wine wholesaler's permit under IC 7.1-3-13;
 for which the applicant claims a deduction under this chapter.
 (f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:

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(1) Elderly persons who are predominately low-income or moderate-income persons.

(2) Persons with a disability.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 2. IC 6-1.1-12.1-5, AS AMENDED BY P.L.146-2008, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 5. (a) A property owner who desires to obtain the deduction provided by section 3 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. Except as otherwise provided in subsection (b) or (e), the deduction application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township or county assessor.

(c) The deduction application required by this section must contain the following information:

(1) The name of the property owner **and, if applicable, the property owner's tenant.**

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation.

(5) The assessed value of the new structure in the case of redevelopment.

(6) The amount of the deduction claimed for the first year of the deduction.

(7) If the deduction application is for a deduction in a residentially distressed area, the assessed value of the improvement or new structure for which the deduction is claimed.

(d) A deduction application filed under subsection (a) or (b) is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the following years the deduction is allowed without any additional deduction application being filed. However, property owners who had an area designated an

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urban development area pursuant to a deduction application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to a deduction application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(e) A property owner who desires to obtain the deduction provided by section 3 of this chapter but who has failed to file a deduction application within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year which shall be applicable for the year filed and the subsequent years without any additional deduction application being filed for the amounts of the deduction which would be applicable to such years pursuant to section 4 of this chapter if such a deduction application had been filed in accordance with subsection (a) or (b).

(f) Subject to subsection (i), the county auditor shall act as follows:

(1) If a determination about the number of years the deduction is allowed has been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall make the appropriate deduction.

(2) If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body. Upon receipt of the resolution stating the number of years the deduction will be allowed, the county auditor shall make the appropriate deduction.

(3) If the deduction application is for rehabilitation or redevelopment in a residentially distressed area, the county auditor shall make the appropriate deduction.

(g) The amount and period of the deduction provided for property by section 3 of this chapter are not affected by a change in the ownership of the property if:

(1) the new owner of the property

~~(1)~~ **or a lessee of the new owner** continues to use the property in compliance with any standards established under section 2(g) of this chapter; and

(2) **the new owner** files an application in the manner provided by subsection (e).

(h) The township or county assessor shall include a notice of the deadlines for filing a deduction application under subsections (a) and (b) with each notice to a property owner of an addition to assessed value or of a new assessment.

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(i) Before the county auditor acts under subsection (f), the county auditor may request that the township assessor of the township in which the property is located, or the county assessor if there is no township assessor for the township, review the deduction application.

(j) A property owner may appeal a determination of the county auditor under subsection (f) to deny or alter the amount of the deduction by requesting in writing a preliminary conference with the county auditor not more than forty-five (45) days after the county auditor gives the person notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

SECTION 3. IC 6-1.1-12.1-5.1, AS AMENDED BY P.L.193-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 5.1. (a) This subsection applies to:

- (1) all deductions under section 3 of this chapter for property located in a residentially distressed area; and
- (2) any other deductions for which a statement of benefits was approved under section 3 of this chapter before July 1, 1991.

In addition to the requirements of section 5(c) of this chapter, a deduction application filed under section 5 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 3 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to each deduction (other than a deduction for property located in a residentially distressed area) for which a statement of benefits was approved under section 3 of this chapter after June 30, 1991. In addition to the requirements of section 5(c) of this chapter, a property owner who files a deduction application under section 5 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 3 of this chapter. This information must be included in the deduction application and must also be updated each year in which the deduction is applicable at the same time that the property owner is required to file a personal property tax return in the taxing district in which the property for which the deduction was granted is located. If the taxpayer does not file a personal property tax return in the taxing district in which the property is located, the information must be provided before May 15.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

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(1) The name and address of the taxpayer **and, if applicable, the property owner's tenant.**

(2) The location and description of the property for which the deduction was granted.

(3) Any information concerning the number of employees at the property for which the deduction was granted, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the assessed value of the property, including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the property owner **or a tenant of the property owner.**

(2) Any information concerning the cost of the property.

SECTION 4. IC 6-1.1-12.1-12, AS AMENDED BY P.L.154-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 12. (a) A property owner that has received a deduction under section 3 or 4.5 of this chapter is subject to the provisions of this section if the designating body adopts a resolution incorporating the provisions of this section for the economic revitalization area in which the property owner is located.

(b) If:

(1) the property owner, ~~(or, in the case of a deduction under section 4.8 of this chapter, the property owner~~ or a tenant of the property owner, ceases operations at the facility for which the deduction was granted; and

(2) the designating body finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's **or property owner's tenant's** plans to continue operations at the facility;

the property owner shall pay the amount determined under subsection (e) to the county treasurer.

(c) A property owner may appeal the designating body's decision under subsection (b) by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the

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1 court without a jury and determined not more than thirty (30) days after
 2 the time of the filing of the appeal. The court shall hear evidence on the
 3 appeal and may confirm the action of the designating body or sustain
 4 the appeal. The judgment of the court is a final determination that may
 5 be appealed in the same manner as other civil actions.

6 (d) If an appeal under subsection (c) is pending, the payment
 7 required by this section is not due until after the appeal is finally
 8 adjudicated and the property owner's liability for the payment is finally
 9 determined.

10 (e) The county auditor shall determine the amount to be paid by the
 11 property owner according to the following formula:

12 STEP ONE: For each year that the deduction was in effect,
 13 determine the additional amount of property taxes that would
 14 have been paid by the property owner if the deduction had not
 15 been in effect.

16 STEP TWO: Determine the sum of the STEP ONE amounts.

17 STEP THREE: Multiply the sum determined under STEP TWO
 18 by one and one-tenth (1.1).

19 (f) The county treasurer shall distribute money paid under this
 20 section on a pro rata basis to the general fund of each taxing unit that
 21 contains the property that was subject to the deduction. The amount to
 22 be distributed to the general fund of each taxing unit shall be
 23 determined by the county auditor according to the following formula:

24 STEP ONE: For each year that the deduction was in effect,
 25 determine the additional amount of property taxes that would
 26 have been paid by the property owner to the taxing unit if the
 27 deduction had not been in effect.

28 STEP TWO: Determine the sum of the STEP ONE amounts.

29 STEP THREE: Divide the STEP TWO sum by the sum
 30 determined under STEP TWO of subsection (e).

31 STEP FOUR: Multiply the amount paid by the property owner
 32 under subsection (e) by the STEP THREE quotient.

33 **SECTION 5. [EFFECTIVE JANUARY 1, 2010] IC 6-1.1-12.1-3,**
 34 **IC 6-1.1-12.1-5, IC 6-1.1-12.1-5.1, and IC 6-1.1-12.1-12, all as**
 35 **amended by this act, apply only to ad valorem property taxes based**
 36 **on assessment dates after February 28, 2010.**

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